

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOCKETED

OCT 29 2004

FILED FOR DOCKETING
ED-7
04 OCT 28 AM 8:36
CLERK
U.S. DISTRICT COURT

April McMillan,

Plaintiff,

v.

Collection Professionals, Inc., an Illinois
corporation,

Defendant.

04C No. 6921

JUDGE MANNING

**MAGISTRATE JUDGE SCHENKIER
COMPLAINT**

Plaintiff, April McMillan, brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), for a declaration that Defendant's debt collection practices violate the FDCPA, and to recover damages by reason of Defendant's violations of the FDCPA, and alleges:

JURISDICTION AND VENUE

1. The jurisdiction of the Court is invoked as authorized by § 1692k(d) of the FDCPA, and 28 U.S.C. § 1331.
2. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendant transacts business here.

PARTIES

3. Plaintiff, April McMillan ("McMillan"), is a citizen of the State of Illinois residing in the Northern District of Illinois, from whom Defendant attempted to collect a consumer debt allegedly owed to "Testa Iga" for a dishonored check.
4. Defendant, Collection Professionals, Inc. ("CP"), is an Illinois corporation that acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly

uses the mail and/or the telephone to collect, or attempt to collect, delinquent consumer debts, including delinquent consumer debts in the Northern District of Illinois.

FACTUAL ALLEGATIONS

5. Defendant sent Plaintiff a form collection letter, dated December 8, 2004, demanding payment for a dishonored check she wrote to "Testa Iga". This letter stated, in pertinent part:

* * *

YOU ARE EITHER HONEST OR DISHONEST YOU CANNOT BE BOTH

Your creditor believed you to be honest when credit was extended.

The injustice of permitting this account to become past due and then ignoring all requests for payment, casts a doubt of good intentions.

We would like to give you this final opportunity to prove your honesty and good intentions. Payment in full or satisfactory arrangements for payment must be made without further delay.

Collection Professionals, Inc. is a debt collection agency. This is an attempt to collect a debt and any information obtained will be used for that purpose.

* * *

This letter was sent within one year of this Complaint and is attached as Exhibit A.

6. The statements in Defendant's form collection letters are to be interpreted under the "unsophisticated consumer" standard. (See, Bartlett v. Heibl, 128 F.3d 497, 500 (7th Cir. 1997); Chauncey v. JDR, 118 F.3d 516, 519 (7th Cir. 1997); Avila v. Rubin, 84 F.3d 222, 226 (7th Cir. 1996)).

Violations Of § 1692e And f Of The FDCPA - False Statements And Unfair or Unconscionable Collection Actions

7. Section 1692e of the FDCPA prohibits a debt collector generally from using any false, deceptive or misleading representation or means in connection with the collection of a debt, including falsely representing or implying that a consumer has "committed any crime or other conduct in order to disgrace the consumer" 15 U.S.C. §

1692e(7). Moreover, § 1692f of the FDCPA prohibits the use of any unfair or unconscionable means to collect or attempt to collect a debt.

8. Defendant's statements, that **"YOU ARE EITHER HONEST OR DISHONEST YOU CANNOT BE BOTH"**, that the "creditor believed you to be honest when credit was extended", and that "We would like to give you this final opportunity to prove your honesty and good intentions" are false, deceptive and misleading and unfair and unconscionable. These statements wrongly imply that the Plaintiff is dishonest and are intended to disgrace Plaintiff because she did not pay the debt at issue.

Defendant's statements thus violate § 1692e and f of the FDCPA.

9. Defendant's violations of § 1692e and f of the FDCPA render it liable for damages, costs, and reasonable attorneys' fees. (See, 15 U.S.C. § 1692k).

PRAYER FOR RELIEF

Plaintiff, April McMillan prays that this Court:

1. Declare that Defendant's debt collection letter violated the FDCPA;
2. Enter judgment in favor of Plaintiff McMillan, and against Defendant, for damages, costs, and reasonable attorneys' fees as provided by § 1692k(a) of the FDCPA; and,
3. Grant such further relief as deemed just.

JURY DEMAND

Plaintiff McMillan demands trial by jury.

April McMillan,

By: 
One of Plaintiff's Attorneys

Dated: October 28, 2004

David J. Philipps
Mary E. Philipps
Gomolinski & Philipps, Ltd.
8855 S. Roberts Road
Hickory Hills, Illinois 60457
(708) 974-2900
(708) 974-2907 (FAX)

PO Box 841
Joliet IL 60434-0841
ADDRESS SERVICE REQUESTED



Collection Professionals, Inc.
168 N. Ottawa St. Suite 316 ♦ Joliet IL 60432-4146
(815) 722-6300

December 8, 2003

129958-107 127977 7080



April Mcmillan
216 W Main
Braceville IL 60407-

COLLECTION PROFESSIONALS, INC.

PO Box 841
Joliet IL 60434-0841



Account #: 129958
Total Balance: \$232.48

Past Due Balance

Detach Upper Portion And Return With Payment

Testa Iga	Nsf Ck 1029	86.43
Previous Debts		146.05

		232.48

**YOU ARE EITHER HONEST OR DISHONEST
YOU CANNOT BE BOTH**

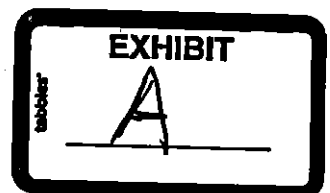
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ISDCPRO20107



COLLECTION PROFESSIONALS, INC. ♦ 168 N. Ottawa St. Suite 316 ♦ Joliet IL 60432-4146 ♦ (815) 722-6300

Civil Cover Sheet

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

DOCKETED

OCT 29 2004

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

Plaintiff(s): April McMillan,

Defendant(s): Collection Professionals, Inc., an Illinois corporation,

County of Residence: Grundy

County of Residence:

Plaintiff's Atty: Gomolinski & Philipps, Ltd.
8855 South Roberts Road
Hickory Hills, IL 60457
(708) 974-2900

Defendant's Atty:

04C 6921

II. Basis of Jurisdiction:

3. Federal Question (U.S. not a party)

III. Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff: - N/A
Defendant: - N/A

JUDGE MANNING

MAGISTRATE JUDGE SCHENKIER

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

890 Other Statutory Actions

VI. Cause of Action:

Fair Debt Collection Practices Act, 15 U.S.C. Section 1692 et seq.

VII. Requested in Complaint

Class Action: No
Dollar Demand: damages, costs and reasonable attorneys' fees
Jury Demand: Yes

VIII. This case **IS NOT** a refiling of a previously dismissed case.

Signature:

Date:

10.28.04

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U.S. DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, print this form, sign and date it and submit it with your new civil action. **Note: You may need to adjust the font size in your browser display to make the form print properly.**

Revised: 06/28/00

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

In the Matter of April McMillan, v. Collection Professionals, Inc., an Illinois corporation.

DOCKETED

OCT 29 2004

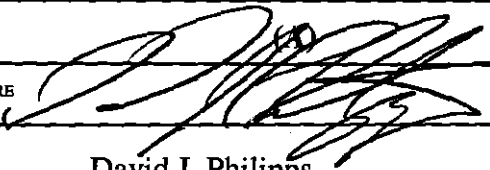
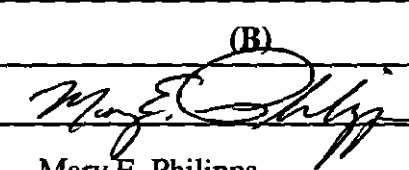
Case Number: _____

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

Plaintiff April McMillan.

040 6921
JUDGE MANNING

MAGISTRATE JUDGE SCHENKIER

SIGNATURE 		SIGNATURE 	
NAME David J. Philipps		NAME Mary E. Philipps	
FIRM Gomolinski & Philipps, Ltd.		FIRM Gomolinski & Philipps, Ltd.	
STREET ADDRESS 8855 S. Roberts Road		STREET ADDRESS 8855 S. Roberts Road	
CITY/STATE/ZIP Hickory Hills, Illinois 60457		CITY/STATE/ZIP Hickory Hills, Illinois 60457	
TELEPHONE NUMBER 708-974-2900		TELEPHONE NUMBER 708-974-2900	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) Ill. Bar No. 06196285		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) Ill. Bar No. 06197113	
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TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
(C)		(D)	
SIGNATURE		SIGNATURE	
NAME		NAME	
FIRM		FIRM	
STREET ADDRESS		STREET ADDRESS	
CITY/STATE/ZIP		CITY/STATE/ZIP	
TELEPHONE NUMBER		TELEPHONE NUMBER	
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MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

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